

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 UNITED STATES OF AMERICA :
4 v. :
5 BRIAN LAMONT GREENE :
6 :
7 :
8 :
9 :

: Case No. 98-13E

10 Hearing in the above-captioned matter held on
11 Tuesday, March 14, 2006, commencing at 1:47 p.m.,
12 before the Honorable Maurice B. Cohill, in the United
13 States District Court, 17 South Park Row, Erie,
14 Pennsylvania 16501.

15
16
17 For the United States of America:

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21 Erie, PA 16501

22 For the Defendant:

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I N D E X

DAVID CONDE

Cross-Examination by Ms. Sanner.....	4
Direct Examination by Mr. Patton.....	13
Recross-Examination by Ms. Sanner.....	16

KELLIN STRONG

Direct Examination by Ms. Sanner.....	17
Cross-Examination by Mr. Patton.....	25
Redirect Examination by Ms. Sanner.....	35

EXHIBITS

Government's Exhibit No. 1.....	6
Government's Exhibit No. 2.....	6
Government's Exhibit No. 3.....	23
Government's Exhibit No. 4.....	23
Government's Exhibit No. 5.....	23
Government's Exhibit No. 6.....	23
Defendant's Exhibit A.....	38

1 THE COURT: This is the time set for a hearing on a
2 motion from the probation department to show cause why --
3 Brian Lamont Greene should not show cause why his supervision
4 should not be revoked. So with that, I guess, Ms. Sanner,
5 we'll start with you.

6 MS. SANNER: The Government would call US Probation
7 Officer David Conde.

8 MR. PATTON: Your Honor, let me clarify. There are
9 two violation allegations made in the Petition. One is that
10 Mr. Greene used marijuana, we are not contesting that
11 allegation.

12 THE COURT: The other, employment --

13 MR. PATTON: That is correct, and we are contesting
14 that.

15 THE COURT: Would you come forward and be sworn.

16
17 D A V I D C O N D E, first having been
18 duly sworn, testified as follows:

19
20 THE COURT: Have a seat, please. Give us your name,
21 and spell your last name.

22 THE WITNESS: My name is David middle initial J.
23 Conde, C-O-N-D-E.

24
25

1 DIRECT EXAMINATION

2 BY MS. SANNER:

3

4 Q. How are you employed?

5 A. I'm a probation officer for the Western District of
6 Pennsylvania.

7 Q. How long have you been so employed?

8 A. This coming April will be 16 years.

9 Q. What are our some of your duties as a US probation
10 officer?

11 A. To conduct investigations for the court; supervise
12 individuals who have been sentenced by the court who are on
13 probation, term of supervised release; or also, in addition,
14 supervise any other cases that may be referred to our office.

15 Q. Is one of the cases referred to your office having
16 to do with Brian Lamont Greene?

17 A. Yes, ma'am.

18 Q. And he was convicted on May 18, 1999?

19 A. Yes, ma'am.

20 Q. That was for Conspiracy to Distribute and Intent to
21 Distribute Cocaine and Cocaine-Based Powder?

22 A. Yes, ma'am.

23 Q. And for that he was sentenced to 60 months
24 incarceration?

25 A. Yes.

1 Q. But his sentencing guidelines, the range would have
2 been 121 to 151 months incarceration?

3 A. Yes. Originally, at the time of sentencing, he was
4 facing that guideline.

5 Q. So he received a downward departure for a (5)(k)?

6 A. Yes, ma'am.

7 Q. On April 1, 2003, was Mr. Greene absent without
8 leave from home confinement?

9 A. Yes. There was information received in the file
10 that he had been AWOL from home confinement.

11 Q. And he was arrested at that time and incarcerated at
12 the Franklin County Jail?

13 A. Yes, ma'am.

14 Q. And following that release from jail he was placed
15 in the Elvis House?

16 A. Yes.

17 Q. In June 2003 he escaped from the Elvis House?

18 A. Yes, ma'am.

19 Q. And at that time he tested positive for marijuana
20 use?

21 A. Yes, ma'am.

22 Q. He was again arrested and incarcerated at the
23 Franklin County Jail?

24 A. Yes, ma'am.

25 Q. And on January 30, 2004 he was released for

1 supervision at the Southern District of Ohio?

2 A. Yes. The Southern District of Ohio, Columbus
3 office.

4 MS. SANNER: May I approach with the terms and
5 conditions?

6 THE COURT: Sure.

7 Q. I'm showing you what's been marked Government's
8 Exhibits 1 and 2. Do you recognize Government's Exhibit 1?
9 (Government's Exhibit Nos. 1 and 2 marked for
10 identification.)

11 A. Exhibit No. 1 would be the judgment order that was
12 issued by this Court on May 20th of 1999.

13 Q. And Exhibit No. 2?

14 A. Exhibit No. 2 is what we call Probation Form 7A,
15 which is the conditions of probation and supervised release.
16 The form shows that it was for the Southern District of Ohio,
17 and it was executed by United States Probation Officer Lorie
18 Johnson of the Columbus, Ohio office on February 4, 2004.

19 Q. What were some of the conditions that Mr. Greene
20 faced at the time of his supervision?

21 A. Some of the things that we have checked off, of
22 course, is not to commit any other federal, state, or local
23 crime; possess firearms or destructive device; report within
24 72 hours from release of the Bureau of Prisons; submit to a
25 drug urinalysis within 15 days of being placed on

1 supervision. Of course, there are the standard conditions,
2 which include being employed; which includes refraining from
3 the purchase, possession, use, distribution, administration
4 of any narcotic or other controlled substances. There is
5 also a special condition that the Defendant participate in a
6 program of testing, and if necessary, treatment for substance
7 abuse.

8 Q. While Mr. Greene was on supervision, he started in
9 February of 2004 to look for employment, supposedly, at a
10 gym?

11 A. Yes, ma'am.

12 Q. And he expressed to the probation officer his intent
13 to become a personal trainer?

14 A. Yes. He had discussed getting recertified as a
15 personal trainer.

16 Q. But about one month later, in March 2004, he still
17 needed to get certified to be a personal trainer?

18 A. Yes. He had indicated to the probation officer that
19 he was attempting to get the money to be able to do such a
20 thing.

21 Q. And at that point, in March 2004, he still hadn't
22 had the money together to apply for the certificate?

23 A. Correct.

24 Q. He was told by the probation officer that he needed
25 to find another job while he was waiting?

1 A. At that particular time that's what the officer
2 stressed, yes.

3 Q. In April of 2004, Mr. Greene got the certificate for
4 training?

5 A. I'm sorry, can you say that again.

6 Q. In April 2004, Mr. Greene eventually got the
7 certificate for personal training?

8 A. I believe so.

9 Q. But the gym that he said was going to hire him
10 imminently did not, in fact, choose to hire him?

11 A. That is true.

12 Q. He expressed his intent to the probation officer to
13 work at the mall or perhaps play professional football?

14 A. He had mentioned to the probation officer that he
15 had the opportunity to perhaps get employment at Eastland
16 Mall, which I assume is in the Columbus area. Also, that he
17 had been able to have the opportunity to play for an arena
18 football team by the name of Columbus Fire, and also, that he
19 may -- well, may have -- that he had gotten some additional
20 employment through the coach of that team, by the last name
21 of Clinton, working for a security company that that
22 particular coach had.

23 Q. At that point Mr. Greene was on supervision for a
24 couple months, and the probation officer told him he needed
25 to get a job?

1 A. Yes.

2 Q. And the Defendant's response was that he was going
3 to have a problem with the probation officer over the next
4 five years?

5 A. He made a comment to the probation officer that, if
6 he wasn't able to talk to the PO, that apparently him and her
7 would have a problem for five years.

8 Q. Because he wanted to enjoy whatever job he was
9 doing?

10 A. Basically.

11 Q. In April of 2004, he obtained a security position at
12 Hammerstrength Security?

13 A. Yes. That would have been the company with --
14 again, that Coach Clinton --

15 Q. Had referred him to?

16 A. Yes.

17 Q. But within a couple weeks the probation officer
18 talked to the employer and was told that the security job had
19 not worked out?

20 A. The probation officer spoke with this Mr. Clinton,
21 and he had indicated that Mr. Greene had worked several
22 shifts for him, but had not worked as many shifts as he
23 wanted him to work, and that Mr. Clinton was given the
24 impression that Mr. Greene was still in between moving from
25 the Canton, Ohio area to Columbus, Ohio area so he was not

1 available for as much employment or opportunity to work.

2 Q. In that same month, May 2004, Mr. Greene supposedly
3 had another contact with an employer by the name of Beth Neal
4 who had a store at the Eastland Mall?

5 A. Yes.

6 Q. Ms. Neal was contacted, and she confirmed that the
7 Defendant was working for her?

8 A. She indicated the Defendant would be working for
9 her. I believe the name of the store was Tag Designs.

10 Q. Could it be Tag Me Designs, something like that?

11 A. Yes.

12 Q. What is the relationship, if you know, between Beth
13 Neal and the Defendant?

14 A. My understanding is that is his aunt.

15 Q. In June of 2004, the probation officer went to Tag
16 Me Designs at the mall?

17 A. Yes.

18 Q. And the owner, who was present at the store, said he
19 didn't know and had never met the Defendant?

20 A. The probation officer indicated that it was a kiosk
21 in the mall, which is one of those little stands, and that
22 the individual she spoke to could not identify or knew who
23 Mr. Greene was.

24 Q. Around that time the probation officer attempted to
25 make several home visits with Mr. Greene?

1 A. That is correct.

2 Q. But was unsuccessful?

3 A. Correct.

4 Q. In August of 2004, Greene admitted to the probation
5 office that he was not working full-time?

6 A. That is correct.

7 Q. And at that time they collected a urine specimen
8 from him?

9 A. That is correct.

10 Q. But that urine specimen was invalid and diluted?

11 A. Yes. The lab came back with that result.

12 Q. Another test was made on December 3, 2004?

13 A. Yes. Yes. Another test was taken several weeks
14 later.

15 Q. That urine specimen tested positive for marijuana
16 use?

17 A. Yes, it did.

18 Q. In September of 2004, the Defendant, meeting with
19 the probation officer, told the probation officer that he
20 moved three weeks earlier without informing the probation
21 officer?

22 A. That is correct.

23 Q. And he said at that time that he was working for
24 Beth Neal at Urban Kids Clothing in the Canton Mall?

25 A. Yes.

1 Q. Now, this Beth Neal is still his aunt? The same
2 woman that --

3 A. Yes. The same woman that we mentioned back in April
4 and May.

5 Q. For Tag Me Designs?

6 A. Yes.

7 Q. He submitted an invalid urine sample at this time,
8 on September 26, '04?

9 A. Yes.

10 Q. And later admitted to drinking a lot of water in
11 hopes of diluting the sample?

12 A. Yes, he did.

13 Q. The probation officer tried to verify employment
14 with Ms. Neal, but her phone would not accept incoming calls?

15 A. Yes. That was attempted by the officer, yes.

16 Q. But the Defendant continued to report that he's
17 working for Neal at Urban Kids in Canton Mall?

18 A. Yes, he did.

19 Q. He admitted that it wasn't full-time and that he
20 didn't have verification?

21 A. That is correct.

22 Q. And in November of 2004, Neal, the Defendant's aunt,
23 does admit that he's working -- that the Defendant is working
24 for her at Urban Street Kids?

25 A. Yes. After the Defendant met with the probation

1 officer, approximately seven or eight days later, he provided
2 a valid contact for Ms. Neal. And the probation officer
3 contacted her, and she indicated that he was working for her.

4 Q. He indicated that he had some kind of consulting
5 agreement with Beth Neal?

6 A. Something of that sort was provided at some -- at a
7 later date, yes.

8 Q. Around this time, January of 2005, his supervision
9 was transferred to the Northern District of Ohio?

10 A. Yes.

11 Q. And at that point he would have been supervised by
12 Kellin Strong?

13 A. Yes. He was supervised out of the Youngstown
14 office, Kellin Strong.

15 MS. SANNER: Your Honor, the Government would call
16 US probation officer -- I'm sorry, pass the
17 witness.

18 CROSS-EXAMINATION

19 BY MR. PATTON:

20

21 Q. Mr. Conde, is it fair to say that the testimony
22 you've given about Mr. Greene's work history up to this point
23 is based mainly on reviewing notes from the officer that was
24 supervising Mr. Greene in the Southern District of Ohio?

25 A. Yes. That information's being garnered from the

1 chronological entries of Officer Johnson of the Columbus,
2 Ohio office.

3 Q. And Mr. Greene was being supervised there from the
4 time he was released onto supervised release in January of
5 2004 until -- his supervision got transferred when?

6 A. He was on supervision with the Columbus office for
7 approximately a year. He was released January of '04, and
8 the case was transferred to the Youngstown office in January
9 of '05. So approximately a year.

10 Q. During that time period the probation officer in the
11 Southern District of Ohio verified Mr. Greene's employment at
12 this store with the tags -- that did business with selling
13 the dog tags or serial tags?

14 A. The Tag Me Designs?

15 Q. Yes.

16 A. Well, you have two verifications really. One is the
17 telephonic conversations that she had with Beth Neal
18 indicating that he was going to be employed there. But then
19 a physical confirmation at the actual site of the store
20 failed to confirm that he was working there.

21 Q. But Ms. Neal confirmed that he was working there,
22 correct?

23 A. She did.

24 Q. And she was the owner of the facility, correct?

25 A. That is my understanding.

1 Q. Ms. Neal also verified, later in the year, that
2 Mr. Greene was working at a different store of hers, a
3 children's clothing store, correct?

4 A. Yes, she did.

5 Q. There was a period of time during this year where
6 Mr. Greene was actually playing football for this arena
7 football team, correct?

8 A. The chronologicals really don't make it clear. I
9 mean, there's one entry made in which he claims to the
10 probation officer that he would be playing for this team, but
11 then there is no further entry, and I don't know if that
12 actually occurred. I can only say that the statement was
13 made to her, she put it in the chronos. Whether or not he
14 actually did, I do not know.

15 Q. The probation officer had indicated to Mr. Greene
16 that actually playing football for this arena league would be
17 acceptable employment, correct?

18 A. I assume.

19 Q. The probation officer did talk with Mr. Clinton, who
20 was the coach of this football team, correct?

21 A. Yes. Yes.

22 Q. And it was Mr. Clinton who owned the security
23 company that Mr. Greene worked for at least for some period
24 of time?

25 A. Yes.

1 Q. And Mr. Clinton then did confirm that Mr. Greene had
2 been doing some work for that company; is that correct?

3 A. Yes.

4 Q. So you don't know if there was a period of time in
5 which Mr. Greene was actually playing football?

6 A. I do have -- I have no idea. Like I said, there's
7 only one entry in regards to the arena football.

8 Q. Which indicated that -- and the coach -- well, that
9 entry indicated that Mr. Greene was going to be playing for
10 that team, and that, also, the coach of that team may also
11 have some other side employment for Mr. Greene, correct?

12 A. That is correct.

13 Q. And Mr. Greene did then end up getting work with the
14 football coach's security business, correct?

15 A. It seems for a limited period of time, yes.

16 MR. PATTON: Those are all my questions, Your Honor.

17 THE COURT: Anything further, Ms. Sanner?

18

19 REDIRECT EXAMINATION

20 BY MS. SANNER:

21

22 Q. As far as the football goes, the Defendant expressed
23 his tiredness at working at the couple of practices that he
24 actually worked at?

25 A. Yes.

1 Q. And the security, he actually only worked a few
2 times there because he told the employer that he wasn't
3 available too much because he was planning on moving?

4 A. Correct.

5 MS. SANNER: Nothing further for this witness.

6 THE COURT: Thank you, Mr. Conde.

7 MS. SANNER: The government would call Kellin
8 Strong.

9 THE COURT: If you would come forward and be sworn,
10 please.

11

12 K E L L I N S T R O N G, first having been
13 duly sworn, testified as follows:

14

15 THE COURT: Have a seat please. Give us your name,
16 and spell your last name.

17 THE WITNESS: Kellin, K-E-L-L-I-N, Strong,
18 S-T-R-O-N-G.

19

20 DIRECT EXAMINATION

21 BY MS. SANNER:

22

23 Q. What is your job title?

24 A. US probation officer for the Northern District of
25 Ohio.

1 Q. You're employed in the Northern District of Ohio?

2 A. Youngstown office.

3 Q. As part of your duties you were assigned to
4 supervise the Defendant?

5 A. Yes, ma'am.

6 Q. Do you see the Defendant in the courtroom today?

7 A. Yes.

8 Q. Would you identify him for the record.

9 A. He's sitting next to his attorney at the defense
10 table.

11 Q. On January 10th of 2005, you were told the Defendant
12 was working at Tag Me Designs for Beth Neal?

13 A. Yes.

14 Q. And Beth Neal is the Defendant's aunt?

15 A. That, I'm not sure of.

16 Q. But she is somehow related to the Defendant?

17 A. That, I wouldn't think so. I wouldn't think so.
18 Nothing inside the file stated that they were family.

19 Q. You understood from Ms. Neal that there may have
20 been locations at different malls for her stores?

21 A. Exactly.

22 Q. And around this time you had a few unsuccessful home
23 visit attempts to confirm the Defendant's employment with Tag
24 Me Designs?

25 A. Yes, ma'am. As well as we talked at length to get

1 him to verify his employment as well.

2 Q. But were unsuccessful?

3 A. Exactly.

4 THE COURT: When you say "unsuccessful," what's that
5 mean? I mean, he just wasn't there or --

6 THE WITNESS: A couple times I called I couldn't --
7 he was not at work, as well as I couldn't get ahold of
8 Ms. Neal. Very hard to get ahold of.

9 Q. In February of 2005, did you sign Mr. Greene up for
10 the Breakfast Club?

11 A. Yes, I did.

12 Q. Would you tell the Court what the Breakfast Club is.

13 A. The Breakfast Club is something I put in place for
14 all of my clients who are unemployed, which they have to go
15 and fill out a form -- they have to contact five employers
16 every day, and see me every day by noon and verify that
17 they've gone out to find employment.

18 Q. And you did this because Mr. Greene was not
19 employed?

20 A. He was not employed. The situation with Kids Urban
21 Street was the fact that we couldn't get him to verify his
22 income, how he's being paid there. I could not get it
23 verified through Ms. Neal because I was unable to contact
24 her. And then, eventually, he expressed a desire not to work
25 there because -- due to travelling from Youngstown to Canton

1 and Akron. And then, along came his next employment with his
2 aunt at American Maintenance.

3 Q. Did Mr. Greene report twice to the Breakfast Club?

4 A. Yeah, for the most part. His attendance was between
5 80 and 90 percent showing up.

6 Q. At some point he stopped showing up?

7 A. Yeah.

8 Q. You attempted a home visit in June of 2005?

9 A. Yes.

10 Q. And you learned at that point that nothing had
11 changed in regards to Mr. Greene's employment?

12 A. No.

13 Q. So as of that point he still was not employed?

14 A. Still was not employed.

15 Q. In July of 2005, he told you he was not employed
16 because he was a full-time student?

17 A. Yes.

18 Q. In August of 2005, you learned that he was not in
19 school?

20 A. Yes, ma'am.

21 Q. But he was still not employed?

22 A. Still not employed.

23 Q. And you told him to report daily to you on your --
24 his job search activities?

25 A. Yes, ma'am.

1 Q. In September of 2005, he told you he was working at
2 a clothing store by the name of Connect?

3 A. Yes, ma'am.

4 Q. Did he tell you who owned the store?

5 A. Initially he -- he contacted me to inform me that he
6 was able to secure employment at Connect, but he could not --
7 he could not tell me -- I asked him who was the supervisor,
8 who owned the business. Mr. Greene did not know -- he
9 informed me that he did not know who the business owner was.
10 The Connect Clothing Store is probably a quarter the size of
11 the courtroom, Your Honor. And what I asked him was, for a
12 business that small, it's almost impossible to not know who
13 owns the business. Mr. Greene told me he did not know who
14 owned the business. I said, all right. We have to find out
15 who owns the business.

16 Two days later, Mr. Greene comes in with this
17 contract form, which is the same form with Kids Urban --
18 Urban Street and Tag Me Designs. I said, well, how is -- so
19 Ms. Neal owns it. And he says, yes. I said, but I asked you
20 the day before and you didn't know who owned it. And you
21 previously worked with her before, how would you not know she
22 owns the business that you claim that you're working at now.
23 He couldn't give me anything.

24 So after that I followed up, I went over to the
25 Mahoning County Courthouse and checked the business

1 registration, the ownership of the building, and everything.
2 And the registration of the business came back as -- had Mr.
3 Greene listed as the vice president of the company. So we
4 have two conflicts now. First you didn't know who owns the
5 business. Then you told me that Ms. Neal owns the business
6 and you wanted to work under the same contract that you have
7 here from a previous employer that you didn't know now who
8 owns the business that you working at, and now, mysteriously
9 you're listed as the vice president of the company you don't
10 know who owns.

11 Q. So you felt Mr. Greene was being deceptive?

12 A. Very. Very.

13 Q. You conducted monitoring of the store at the mall?

14 A. It's not at the mall. It's -- it's on Market
15 Street, on the main strip.

16 Q. When you conducted surveillance, did you see if the
17 business was open?

18 A. They were in the process of just opening the
19 business. So there was a lot of activity, they were setting
20 up shop and putting in clothing and everything else like
21 that. But for the most part the business, at this point in
22 time, never got fully up. It was not open full-time.

23 Q. Can you describe the activity that was going about
24 the business. Did it appear to be business-related to you?

25 A. My personal opinion, I would almost -- I pretty

1 much -- like without having any further evidence, I looked at
2 it pretty much as a front. Pretty much young men going in
3 there, all the fancy cars, the 20-inch rims, and everything
4 like that. A lot of traffic in and out of the building on a
5 regular basis. I conducted surveillance there, and the
6 business wasn't open yet.

7 Q. You observed a lot of young males around?

8 A. Nine to 10 young men.

9 Q. And very little clothing?

10 A. Very little clothing at the time.

11 Q. In September of 2005, after you conducted some
12 surveillance of this business, you asked Mr. Greene to submit
13 a urine sample?

14 A. Yes, ma'am.

15 Q. And he tested positive for marijuana on that date?

16 A. Yes, he did.

17 MS. SANNER: Your Honor, may I approach?

18 THE COURT: Sure.

19 Q. I'm showing you what's been marked Government's
20 Exhibits 3, 4, 5, and 6. Do you recognize them?

21 (Government's Deposition Exhibit Nos. 3, 4, 5, and 6
22 marked for identification.)

23 A. Yes, ma'am.

24 Q. Can you tell the Court what they are.

25 A. These are drug letter confirmations from Crowe

1 Laboratories stating the positive drug test. One specimen
2 here was a urinalysis collected September 30th, which came
3 back positive for THC, which is marijuana, which was
4 confirmed on October the 7th.

5 Exhibit 4 was for a urinalysis collected on October
6 26, 2005. The analysis also returned positive for marijuana
7 on November 11, 2005 by Crowe Laboratories.

8 As well as Exhibit No. 5, which was submitted on
9 October 27th -- this was October 27th. That came back
10 positive as well for marijuana, but in addition for
11 Hydrocodone and Hydromorphone. Those tests were confirmed
12 positive on November the 11th.

13 Q. After Mr. Greene first tested positive for marijuana
14 on November 30th -- I'm sorry, September 30th, he was
15 referred to PSI care for drug and alcohol counseling?

16 A. Yes.

17 Q. Did Mr. Greene attend his treatment as required?

18 A. Mr. Greene went to his -- he went to his initial
19 drug and alcohol assessment. Then, after that, he failed to
20 participate in anything else.

21 Q. He failed to appear for a drug test on November 4th,
22 8th, 9th, 10th, 11th, 15th, 17th, and 18th of 2005?

23 A. Yes. And then, eventually, we discharged him as a
24 program failure.

25 MS. SANNER: Your Honor, the Government would offer

1 Government's 1 through 6 into evidence.

2 THE COURT: One through six are admitted.

3 Mr. Patton?

4

5 CROSS-EXAMINATION

6 BY MR. PATTON:

7

8 Q. Mr. Strong, you've been supervising Mr. Greene for
9 roughly a year?

10 A. Yes, sir. Actually, 10 months. He's still under my
11 supervision, but Mr. Greene -- I have not had any contact
12 with Mr. Greene since November the 1st. He's never reported
13 back into the office or anything else.

14 Q. While you were supervising Mr. Greene, did you guys
15 talk about Lockdown Familia, his record producing business?

16 A. We've talked -- we've talked about this stuff.

17 Q. Fact, Mr. Greene told you that Lockdown Familia is a
18 production company to try and promote artists -- musical
19 artists, correct?

20 A. Yes, sir.

21 Q. Mr. Greene told you that he was involved in that
22 business promoting musical artists; is that correct?

23 A. Yes, sir. And we've -- on numerous occasions we've
24 talked about other business ventures that Mr. Greene wanted
25 to do. And each and every time I told Mr. Greene, provide

1 documentation about what you're doing. He talked about
2 Lockdown Familia. I've never seen any paperwork,
3 documentation, pay stubs, or anything of his business
4 ventures.

5 Q. You never saw any pay stubs from Lockdown Familia?

6 A. No paperwork, nothing. No titles that it's in
7 business.

8 Q. You don't dispute that he's promoting artists and
9 putting on concerts in the local area, correct?

10 A. I have no proof. And prior to this we -- I wouldn't
11 say a rough history, but this -- Mr. Greene has been
12 deceitful with me in the past. So with him being deceitful
13 in the past, I've always required Mr. Greene to send me
14 paperwork and documentation. Even before Kids Urban Street
15 there were two other employments that he had prior to that
16 that he was found to deceive me about as well. So pretty
17 much he was -- Mr. Greene understood that he was on pretty
18 much, for lack of a better word, a short leash, and that he
19 needed to provide documentation for everything he was doing.

20 Q. But he told you he was working through this Lockdown
21 Familia to promote artists, correct?

22 A. Yes, sir. But he also told me he had other jobs
23 that he was not found to be working at either that we haven't
24 discussed.

25 Q. And he's told you that the artists that this record

1 label produces actually sold CDs and had put on successful
2 concerts?

3 A. He's never explained to me, nor has he proven or
4 shown documentation to that effect.

5 Q. When Mr. Greene first came under your supervision,
6 you talked with Ms. Neal about Mr. Greene's employment with
7 her companies; is that correct?

8 A. Yes.

9 Q. And she confirmed his employment, correct?

10 A. That one time, yes.

11 Q. Which if we --

12 A. I would give Mr. Greene the Kids Urban Street, but
13 after he left, we had two other incidents that he claimed
14 employment where he was not working. So it's hard, in my
15 book, to establish that without having any documentation. We
16 had one incident where he was working for his uncle or cousin
17 at an auto body shop. He told me, Officer Strong, I started
18 working today. I'm being paid this amount of money, and
19 everything is going well. I have to hurry up and get out of
20 the office and get back to work.

21 The very next day I went to his uncle's business at
22 the auto body shop. He told me, Brian is not working here
23 yet. What I told Brian, Brian and a friend of his wanted to
24 open up a detailing shop in an empty bay, but until I get the
25 detailing done here and get the car out of the way, they

1 haven't started yet.

2 At the same time Mr. Greene reported that he was
3 working at a barbecue restaurant in Mentor, Ohio. After many
4 phone calls, Brian had never worked there. I called day,
5 night, evening, and eventually I showed up at the barbecue
6 restaurant -- this was all in April or May -- Mr. Greene was
7 found not to be working there.

8 Q. And this occurred in April?

9 A. April and May.

10 Q. And May?

11 A. Which may not be in those initial chronos.

12 Q. You just referred to -- it's chronos; is that
13 correct?

14 A. I do a lot of dictating, and sometimes -- with the
15 use of tape, sometimes what happens is the chronos get
16 deleted.

17 Q. So I take it you understand that there's nothing in
18 your chronos from April or May of this year that indicate
19 that Mr. Greene told you he was working at a barbecue
20 restaurant and that you went to these extraordinary lengths
21 to try and confirm that employment and it came up that he was
22 not employed? Nothing of that nature appears in your
23 chronos, right?

24 A. No, it's not.

25 Q. And the reason those aren't in your chronos is

1 because you have trouble running the dictation machine?

2 A. They've probably been deleted on the dictation, and
3 for the purpose of court, that's fine, and I'll concede that.
4 However, once we come back to the Connect Clothing Store, it
5 just shows a pattern of Mr. Greene's deceitfulness. Would I
6 wage war over the barbecue joint or working at his uncle's
7 body shop, no, I wouldn't. But the pattern has been
8 established with the Urban Street -- more than enough to show
9 Mr. Greene's deceitfulness.

10 As well as what's established inside the chronos is
11 Mr. Greene's same pattern when he was in Columbus. He would
12 work enough to keep the PO off his back, try a business
13 venture. When Mr. Greene get tired of reporting in for the
14 Breakfast Club, that's when Mr. Greene decided to go into --
15 sign up for Youngstown State University. Then, come to find
16 out, once that's done -- he never finished the paperwork --
17 followed through with that paperwork as well.

18 Q. Let me see if I understand. You said Mr. Greene
19 would work enough to keep the PO off his back.

20 A. Not to much -- not to much -- he would try to -- he
21 would do a little job here, then not work, then work. It's
22 the same -- pretty much the same pattern that he's doing in
23 Columbus that he's doing in Youngstown.

24 Q. You weren't supervising him in Columbus?

25 A. No. I can look at the chronos and it's deja vu.

1 Change the name of employer, change the date, change time.
2 It's pretty much the same thing.

3 Q. Are you trying to say that the information in the
4 chronological reports from Columbus verifying the different
5 places that Mr. Greene was working at are not accurate? Is
6 that what you're testifying to?

7 A. Not so much to the accuracy, but to the usefulness
8 as to how much employment was Mr. Greene working. There is a
9 lot you can do to shimmy around -- get around the system.
10 Let's be honest.

11 Q. So he was working --

12 A. Let's talk full-time employment.

13 Q. So Mr. Greene was working, in your opinion, enough
14 to try and get by under supervision; would that be an
15 accurate statement? But not seriously, in your opinion,
16 trying to get full-time 40-hour-a-week employment?

17 A. No. No.

18 Q. But he was working at various places to try and at
19 least --

20 A. He would --

21 Q. -- satisfy the requirement that he be working?

22 A. Not so much satisfy the requirement. He would get a
23 job, then, once -- he would say he had a job, and then, once
24 the job's been verified, Mr. Greene is off to his next what
25 can I do next to hold off -- what's the next move. That's

1 what it comes down to.

2 Q. Did you ever do, yourself, any investigation into
3 Lockdown Familia to try and determine whether or not it
4 was --

5 A. No.

6 Q. To try to determine these guys were putting on
7 shows?

8 A. No. Mr. Greene was instructed to provide
9 documentation if he was going to use that for employment,
10 which he did not.

11 Q. Is that in the chronos? That he was told to provide
12 documentation --

13 A. Yeah.

14 Q. -- regarding Lockdown Familia.

15 A. Any business effort -- Lockdown Familia wasn't the
16 only thing he tried to do. There was other business stuff
17 that he was instructed to provide paperwork for.

18 Q. Connect Clothing, you're saying that -- that is a
19 clothing store; is that correct?

20 A. Yes, it is a clothing store.

21 Q. Did you check and see if that was an incorporated
22 business -- and, in fact, you did check and verify that it
23 was a business, correct?

24 A. Yes, it was.

25 Q. But it's your opinion that it's just a place for

1 people to come and hang out, and is acting as a cover for
2 some other kind of activity?

3 A. In my honest opinion, I believe so.

4 Q. Because people drive fancy cars there and young men
5 gather?

6 A. Because of my eight years of experience dealing with
7 the streets and understanding my clients and looking at their
8 history, I think I can make an educated assumption.

9 Q. What's your educated assumption?

10 A. That, in my mind, the store is being used as a
11 front.

12 Q. For what?

13 A. For some other illegal activity. I'd probably say
14 drug dealing, but I don't have any proof. I've said that
15 already, though. I don't have no proof at all. However,
16 Mr. Greene was still deceitful in his employment there. How
17 can you work at a place you don't know who works there, then
18 he comes up with Beth Neal's name, that she's the owner, then
19 she's not. Just more patterns of Mr. Greene's deceitfulness.
20 If there was a legitimate job, you wouldn't have a problem
21 stating who you work for.

22 Q. It's a store that exists, that's incorporated, that
23 Mr. Greene told you that he worked for; is that correct?

24 A. Yes, sir.

25 Q. You don't dispute that it's a business that exists;

1 is that right?

2 A. It does exist.

3 Q. And Mr. Greene -- you're just saying, then, he's
4 working there, it's just a cover for something else?

5 A. I'd like to think so.

6 Q. You work in Youngstown, correct?

7 A. Yes, sir.

8 Q. And have you ever had the opportunity, through
9 supervising your other clients or going around town, to see
10 the advertisements that have been put out for the Lockdown
11 Entertainment or Lockdown Familia to show the different acts
12 they're putting at the Red Room or nightclubs or bars?

13 A. No, I have not.

14 Q. Through your work in Youngstown, have you ever had
15 an opportunity to hear about or deal with an Attorney Samuel
16 Ameneora, A-M-E-N --

17 A. Ameneora.

18 Q. -- E-O-R-A.

19 A. Yes.

20 Q. He is a licensed attorney?

21 A. Yes, he is.

22 Q. Respectable, reputable attorney?

23 A. Yes, he is.

24 Q. And if he has stated he has been retained to
25 incorporate Lockdown Familia, with the incorporators being

1 Mr. Greene and a couple other individuals, and they have a
2 client who's sold over 3,000 records to date, you wouldn't
3 have any reason to doubt Attorney Ameneora's statements on
4 that?

5 A. What date was that letter?

6 Q. Yesterday.

7 A. Mr. Greene hasn't been in contact with me since
8 November the 1st. I don't know what Mr. Greene has been
9 doing.

10 Q. So would it be accurate to say, to the extent
11 Mr. Greene was or was not working for this Lockdown Record
12 Company, that was just something that you and he did not
13 discuss, and you didn't -- so you didn't consider it as
14 satisfying the requirements?

15 A. Without that documentation, no, I wouldn't call that
16 his employment. Because of my past dealings with
17 Mr. Greene, he needed to submit documentation for everything.
18 Without documentation, it's nothing.

19 Q. You're not able to say that he wasn't working at
20 this company, this company hasn't promoted an artist that
21 sold multiple CDs? It's just something that you and
22 Mr. Greene haven't discussed?

23 A. No.

24 MR. PATTON: Those are my only questions.
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REDIRECT EXAMINATION

BY MS. SANNER:

Q. Mr. Greene has provided you with some verification of various employments that he's had over the time period; is that right?

A. He -- he's provided pay stubs when he worked at American Maintenance, which was owned by -- I believe it was his aunt. I had one or two pay stubs from American Maintenance. After we had a situation with him working for his uncle at the auto body shop, he came in with some paychecks for that. That was -- and that was it.

Q. What was the amount on those paychecks? If you remember.

A. They're in the file. In the month of January of 2005, he lists on his monthly report employment with Tag Me Designs, Royal Oaks Mall, Akron, Ohio, no pay stubs submitted as verification of that. For the month of February 2005, he lists American -- he lists American Maintenance as employment, with -- we have two pay stubs here -- for February he listed American Maintenance, there was no pay stubs. I guess maybe he was in his first 30 days, no pay stubs were submitted. But for the month of March -- for the month of March of 2005 he lists American Maintenance, he submitted two pay stubs. One for pay date 3/15/2005, which

1 lists a total of 10 hours, which gave him a net pay of \$52;
2 and then the second pay stub was pay date March the 31st, for
3 a total of eight hours, for a total pay of \$58.68. That was
4 for the month of March.

5 Then, if we go back to his job search forms, back to
6 the Breakfast Club, in April he lists the auto body, which is
7 owned by his uncle or cousin. He lists for 5/6 a paycheck
8 for \$400, Check No. 1046. And then a month later, in May, he
9 reports owner auto body as well as American Maintenance.
10 Submitted a paycheck, a month later, in consecutive order,
11 which I -- it's tough to say. Maybe they -- I mean, whether
12 or not they wrote any more checks in that month time frame,
13 but Check 1047 in the amount of \$375; Check 1052 in the
14 amount of \$200; Check 1056 in the amount of \$300, all for R&R
15 Auto Body. And for American Maintenance he has a pay date
16 for May the 14th, he did get 37 hours in at that point in
17 time for \$203.

18 The month of July, no employment. June and July --
19 June he listed down full-time student at YSU, which we found
20 that he really was not attending YSU. Then, the month of
21 July, no employment listed. Then we go to August, Kids Urban
22 Street, the Connect Store at 2600 Market Street, which two
23 stores are not the same name or not affiliated. And we have
24 September to the Connect Clothing Store, no pay stubs
25 submitted as verification either. And October, same thing,

1 Connect Clothing Store, no pay stubs submitted for
2 verification of employment.

3 Q. And he was repeatedly asked for verification of
4 employment?

5 A. Of course. Yes, ma'am.

6 Q. And he expressed interest in a lot of different
7 things that he could be employed in such as school,
8 barbering, personal training --

9 A. Personal fitness.

10 Q. -- professional football?

11 A. Personal fitness.

12 Q. And none of those actually had any follow through?

13 A. No, ma'am.

14 MS. SANNER: I have nothing further for this
15 witness.

16 MR. PATTON: I have nothing further for this
17 witness, Your Honor.

18 THE COURT: Thank you. Anything further?

19 MS. SANNER: The Government has no further
20 witnesses, Your Honor.

21 MR. PATTON: Your Honor, can I have a few minutes to
22 consult, talk with Ms. Sanner?

23 THE COURT: We'll take five minutes.

24 (Pause in the proceedings.)

25 MR. PATTON: Your Honor, I would like to introduce a

1 letter that I have from Attorney Samuel Ameneora.
2 Mr. Townley, the investigator from my office, spoke with
3 Mr. Ameneora yesterday and confirmed basically what's in --
4 the contents of this letter. Which is, that this attorney
5 has been retained by Mr. Greene and two other gentlemen that
6 he is partners with to incorporate their business of Lockdown
7 Familia, which is a record producing business, and that their
8 company has sold over 3,000 CDs to date, and that, you know,
9 the attorney is working on Mr. Greene's behalf to accomplish
10 that. And that's marked as Defendant's Exhibit A.

11 (Defendant's Exhibit A marked for identification.)

12 THE COURT: That will be admitted as Defendant's A.

13 MR. PATTON: Your Honor, I'm not going to
14 admit these into evidence, just ask you to take a look at
15 them. These are just different promotional items that this
16 Lockdown Familia has issued promoting the various events that
17 they have produced. Which generally are, you know,
18 nightclubs or stage shows promoting the artists that
19 Mr. Greene, through this company, are producing and
20 supporting.

21 THE COURT: This says that -- I'll read it into the
22 record. Have you seen this?

23 MS. SANNER: Yes, Your Honor.

24 THE COURT: "To whom it may concern: Please be
25 advised that I represent Brian Greene and Lockdown," that's

1 one word, L-O-C-K-D-O-W-N, "Familia," F-A-M-I-L-I-A, "Inc. I
2 have been retained to incorporate Lockdown Familia, Inc.,
3 with the incorporators being Kevin Carter, Brian Greene, and
4 Benjamin Phillips. The purpose of the incorporation is to
5 conduct business in the recording business and entertainment
6 business. A CD produced by that company has sold over 3,000
7 copies to date." I don't know what a CD means.

8 MR. PATTON: It's a compact disc, Your Honor.

9 THE COURT: "Brian Greene and the others have been
10 conducting entertainment business in the Youngstown, Akron,
11 Columbus, and Canton areas for profit.

12 "Due to my previous legal commitments, I am unable
13 to attend today's court proceedings. If you have any other
14 questions, please feel free to call me." And it's Samuel
15 Ameneora, A-M-E-N-E-O-R-A.

16 MR. PATTON: Attorney Ameneora is a master in the
17 juveniles courts over in the Youngstown area, and today is
18 their hearing date. So he was involved doing that.

19 I've also shown these to Ms. Sanner, and I just ask
20 the Court to review them. I'm not going to introduce them as
21 exhibits, but just ask that you consider them.

22 THE COURT: Well, these two -- two of these are back
23 in 2005. VIP artist Tim Jones is August 16, 2005, and Young
24 Jeezy, J-E-E-Z-Y, is Thursday, October 6 --

25 MR. PATTON: That's correct, Your Honor.

1 THE COURT: -- 2005.

2 MR. PATTON: Mr. Greene, along with the other
3 gentlemen involved in this company, have been doing this work
4 since back in August of -- excuse me, October of last year.

5 THE COURT: He hasn't been able to show Mr. Strong
6 any profits, I take it?

7 MR. PATTON: That is accurate. And we're not
8 disputing that he did not report to Mr. Strong that he made
9 any profits off this. But it is our -- we are submitting
10 that Mr. Greene was engaged in this, that it is employment.
11 Like any small business, you know if it fails, you end up not
12 making anything; if it works, you end up being successful.
13 But that is the evidence that we have to present on the
14 issue, Your Honor.

15 THE COURT: Thanks, sir.

16 Do you have any closing statement you want to make,
17 Ms. Sanner?

18 MS. SANNER: Well, the Government would note that
19 the Defendant has been missing in action since November of
20 2005 when he stopped reporting all together.

21 This record promoting company is not incorporated
22 yet. I don't have any aspersions on Attorney Ameneora, who
23 was conveniently hired yesterday, but it's consistent with
24 Mr. Greene's behavior to date. Which is to wait until the
25 heat's about to come down on to him, and then find a job. In

1 this case he's found this record company that he can
2 incorporate.

3 And he has been rather remarkable in his ability
4 over two years to get out from under supervision by either
5 moving or getting a new job or getting a new probation
6 officer. Doing the bear minimum to keep his probation
7 officers at bay and not actually working or contributing
8 meaningfully to society.

9 His pattern shows not just a disrespect for the
10 probation office and the Court, society, but they've also
11 shown a tendency to escalate. Following his failure to
12 repeatedly gain employment, he started with the -- continued
13 more heavily with the drug use, and has four recent tests
14 positive for marijuana. When he was referred then to PSI
15 Care for counseling, he just didn't show up. He didn't get
16 tested, he didn't show up. And the Government believes that
17 the Court should sentence the Defendant to the high end of
18 the range for this.

19 MR. PATTON: Your Honor, with regard to the
20 allegations of marijuana use, Mr. Greene does not dispute
21 that. He admits that he violated the conditions of his
22 supervised release by using marijuana.

23 Mr. Greene has been working while he has been under
24 supervision. The testimony regarding the time that
25 Mr. Greene was in the Southern District of Ohio showed that

1 he did have employment. He was not employed every day during
2 that year, but he was employed at at least three different
3 places that were confirmed, and -- that he was working there.

4 In the Northern District of Ohio, Agent Strong, you
5 know, listed the Tag Me Designs, where he was working in
6 January of '05, and that was confirmed through Ms. Neal.
7 Then he worked at American Maintenance, that he worked there
8 and got paid checks from there in March. And again in May of
9 2005 at the R&R Auto Body, which was, you know, a relation to
10 Mr. Greene, and you have checks there for \$400, \$375, \$200,
11 \$300.

12 You have Mr. Greene reporting that he was working at
13 Connect Clothing. You know, Agent Strong can believe what he
14 wants to believe about whether or not it's a front for
15 something else, but it's an incorporated business, a business
16 that exists, Mr. Greene was working there. And the record
17 label that you have -- the letter, while it's dated
18 yesterday, it's not that Mr. Ameneora -- I'm sorry, I keep
19 mispronouncing the man's name. It's not that he was hired
20 yesterday. That's when he wrote the letter that he has been
21 retained to do this.

22 And, you know, Apple Computer Company started by two
23 guys in their garage building computers. Where, if somebody
24 had said confirm to me that you're working, and Steve Job
25 says, me and my buddy, Mr. Wozniak, are building these new

1 things called computers in my garage, I'd be willing to bet
2 that most people would have said, that's not a real job.
3 Well, now Mr. Job is one of the richer men in the country.

4 I'm not saying that this record company is going to
5 make Mr. Greene a record industry mogul. But you have in the
6 music industry -- especially, I would submit, in the portion
7 of the music industry that deals with rap artists -- a lot of
8 the artists that have become very popular started off
9 starting their own production company, working their way up
10 through performing in smaller venues until they become
11 successful. Again, I'm not trying to intimate that this is a
12 major record label that Mr. Greene is working on, but he's
13 working at trying to get it off the ground.

14 So, while, obviously, you're going to find him
15 violating the conditions of his supervised release by using
16 marijuana, I would submit that the Government has not proven
17 by a preponderance of the evidence that Mr. Greene did not
18 comport with the requirement that he be employed.

19 I understand, Your Honor, we had this argument
20 earlier in the day with another supervisory revocation
21 proceeding where the issue came up about, you know, whether
22 you should give a sentence within the range suggested by the
23 revocation table and the guidelines or whether you should
24 give a sentence that's outside that range based on any types
25 of departures. You know, I would point out to Your Honor the

1 same thing that I did this morning, that downward departures
2 for cooperation are not given out because the Government
3 feels that they just want to give this particular Defendant a
4 break.

5 Departures for cooperation are earned. The
6 Government gets consideration in return for the reduced
7 sentence. The Government gets the benefit of cooperation
8 that helps them prosecute and incarcerate other people.
9 That's how Section (5)(k) works. The only way you get a
10 (5)(k) motion is if you provide substantial assistance in
11 investigating and prosecuting other people.

12 So while we understand that you are going to revoke
13 Mr. Greene's supervised release for his marijuana usage, I
14 would submit that a sentence in the middle of that range or
15 towards the lower end would be appropriate.

16 And Mr. Greene would like to make a statement to
17 Your Honor.

18 THE COURT: Mr. Greene.

19 THE DEFENDANT: How you do, Your Honor. Last time I
20 seen you, you sentenced me here in 1999, I was 20 years old.
21 And I just want to tell you that prison was one of the best
22 things you could have did for me. But it seems I still got
23 one problem. And my only problem to present to this Court is
24 I got a drug problem. As far as my business ventures, I'm
25 trying to get them going. I've been establishing --

1 everything's coming good, but I do need a little time and
2 help for my drug problem. I did say thank you for sentencing
3 me previously because it did help me be a better man.

4 THE COURT: Thank you. Mr. Greene was -- in May of
5 1999 he was looking at 121 to 151 months. The Government
6 filed a (5)(k) Motion, and we gave him a huge reduction,
7 which I consider a huge reduction, down to 60 months. And
8 part of the program, as we all know now, was that he was to
9 refrain from any use of a controlled substance, he was to
10 participate in drug testing and treatment for substance
11 abuse, and, I'm quoting, "The Defendant shall work regularly
12 at a lawful occupation unless excused by the probation
13 officer for schooling, training, or other acceptable
14 reasons."

15 Obviously he didn't refrain from use of a controlled
16 substance. According to Mr. Strong he did not -- while he
17 participated in drug testing, most of them showed substance
18 abuse, and then he just stopped showing up to the drug
19 testing. And I don't think we've heard here that he's
20 working regularly at a lawful occupation, and he wasn't
21 excused by the probation officer. So I find that in all
22 three of those areas he has failed to abide by the rules of
23 supervision. As Mr. Patton indicated in his closing remarks,
24 the degree of proof here is by a preponderance of the
25 evidence, and as I say, I don't have any problem in finding

1 by a preponderance of the evidence that Mr. Greene did
2 violate those conditions of his supervised release.

3 In determining a modification of supervised release,
4 the Court is to consider the factors set forth in 18 United
5 States Code Section 3553(a)(1), and these factors include the
6 nature and circumstances of the offense, the history and
7 characteristics of the Defendant, and the need for the
8 sentence to punish, deter, protect the public, and
9 rehabilitate. The Court should also consider the types of
10 sentences available, relevant policy statements, and the need
11 to avoid sentencing disparities.

12 The Defendant's violations here, taken together, do
13 constitute a Grade C violation, and the Defendant's criminal
14 history category is III. Based upon revocation of supervised
15 release, a guideline range of imprisonment under the
16 sentencing guidelines is five to 11 months of imprisonment.
17 We do have the option, under the sentencing -- I guess, since
18 they're advisory, it's not an option anymore, but it's
19 something within the discretion of the Court to impose a
20 sentence that's beyond the guidelines. And in this case, I
21 think this matter calls for that. The note to the guideline
22 states, "Where the original sentence was the result of a
23 downward departure," which, of course, it was a big downward
24 departure here, "an upward departure may be warranted."

25 Upon consideration of 18 United States Code Section

1 3583(e)(3) and US Sentencing Guidelines, Chapter 7, the Court
2 now revokes the Defendant's supervised release and imposes a
3 sentence of imprisonment of 18 months with no supervised
4 release thereafter.

5 We note that even with the 18 months on top of the
6 60 that he was previously sentenced to he's still well under
7 the guideline range that he faced when he was here in 1999.
8 So we're making it 18 months effective immediately, and
9 there'll be no supervision afterward.

10 So I hope you will get a chance to get ahold of
11 yourself, Mr. Greene, and we'll get good reports from now on.
12 Court's adjourned.

13 MR. PATTON: You need to inform Mr. Greene of his
14 appeal rights.

15 THE COURT: You have a right to appeal. You have 10
16 days to appeal. If you don't have a lawyer -- if you can't
17 afford a lawyer, one will be appointed for you to represent
18 you.

19 MR. PATTON: Thank you.

20
21 (Hearing concluded at 3:05 p.m.)
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25

C E R T I F I C A T I O N

I, Sondra A. Black, a Court Reporter and Notary
Public in and for the Commonwealth of Pennsylvania, do
hereby certify that the foregoing is a true and accurate
transcript of my stenographic notes in the
above-captioned matter.

Sondra A. Black

Dated: May 15, 2006